

LABOUR DEPARTMENT

The 11th May, 1981

No. 9(1)-81-8Lab/4970.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s American Universal Electric (India) Ltd., Faridabad :—

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 266 of 1978

between

SHRI RAJ BAHADUR SHARMA, WORKMAN AND THE MANAGEMENT OF M/S AMERICAN
UNIVERSAL ELECTRIC (INDIA) LTD., FARIDABAD.

Present :

Shri Yoginder Singh, for the workman.

Shri R. N. Raj, for the management.

AWARD

By order No. ID/FD/77-78/33848, dated 19th July, 1978, the Governor of Haryana referred the following dispute between the management of M/s American Universal Electric (India) Limited, Faridabad and its workman Shri Raj Bahadur Sharma, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Raj Bahadur Sharma was justified and in order?
If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 15th December, 1978:—

1. Whether the workman resigned his job of his own?
2. If issue No. 1 is not proved whether the termination of services of the workman was justified and in order?
3. If not to what relief is he entitled?

And the case was fixed for the evidence of the management on issue No. 1 which was treated as preliminary.

Issue No. 1 was re-cast as follows on 27th March, 1979:—

1. Whether the workman scribed resignation marked C and Letter marked G under force and coercion and signed all these documents under force and coercion?

And the case was fixed for the evidence of the workman, who examined himself as WW-1 and closed his case. Then the case was fixed for the evidence of the management, who examined Shri P. C. Dua as MW-1, Shri Sultan Singh as MW-2 and Shri M. S. Hooda as MW-3 and closed their case. Arguments were heard. Now I give my finding issues-wise:—

Issue No. 1.—The workman concerned stated that he was an active trade unionist. He had sent a telegram copy Ex.W-1 to the management after which he went to the factory daily. He was called inside by Shri M. S. Hooda. He was made to sign and scribe some papers. He reported the matter to the police. In cross-examination he stated that he was appointed as probation for six months. He denied the suggestion that he was removed on the expiry of the probation period his work being unsatisfactory. He further denied that he was absent from 14th January, 1978 to 13th February, 1978. He further denied that he gave resignation voluntarily. He could not give the name of persons who caught hold of him and admitted that he did not report the matter to the police. WW-2 stated that he knew the concerned workman who had told him that the management had got resignation forcibly from him. In cross-examination he stated that the workman met him in office on 14th February, 1978. He was on duty at that time. He was in service at that time.

MW-1 stated that he knew the concerned workman who worked from June, 1977 to January, 1978 as a probationer. His work was not found satisfactory. He stopped coming to the factory from 15th/16th January, 1978. Ex. M-1 was his resignation letter at point A were remarks in his hand. The letter was given of his own by the workman. The resignation was forwarded by him to the Tool Room Manager with his remarks. At point B was recommendation of Shri Jain. In cross examination he stated that on 14th February, 1978 there were about 42-45 persons working in the tool room. MW-2 stated that Ex. M-2 probation letter was prepared by him. Termination letter Ex. M-3 was also prepared by him which was duly received by the workman through Regd. A. D. post. Shri Raj Bahadur Sharma had brought his resignation on 14th February, 1978 which was Ex. M-1. Resignation was accepted by Shri M. S. Hooda, Factory Manager. Acceptance Ex. M-4 was prepared by him. It bear signature of the concerned workman at point A. Final account was prepared and receipt Ex. M-5 bear signature of the workman at point A. Note at point B was also in his hand. Certificate Ex. M-6 was issued to the workman. It also bear signature of the workman at point A. MW-3 Shri M. S. Hooda stated that Ex. M-1 bear signature of the workman at point C. The workman was issued service certificate. The resignation was voluntary and no threat was extended to him.

I have heard the arguments of the parties and gone through the record. Ex. M-2 is letter of appointment as a probationer. Ex. M-3 is termination letter. Ex. M-1 is resignation letter which is admitted by the workman to be in his own hand. Ex. M-4 is letter from the management in acceptance of resignation letter which is also signed by the workman and so Ex. M-5 which bears a note that he had received from the company his full and final account. Ex. M-6 was service certificate which was signed by the concerned workman. All these documents lead me to the conclusion that the workman resigned his job of his own and not under force or coercion. Mark G i.e. Ex. M-7 is in the hand of the concerned workman and is on a full scape paper. The story of coercion of force is not proved. In the claim statement the workman had stated that he was forced to sign resignation letter where as actual letter is through out in his own hand and he admitted it to be so in his own statement. The representative for the management cited 1950-67 S. C. Labour Judgements page 3821 in which it is held that voluntary resignation does not amount to dismissal or discharged. As such there was no necessity of holding any enquiry or serving notice upon the workman as contended by the representative for the workman. Therefore, I hold that the workman did not scribe resignation mark C and letter marked G under force or coercion but were written of his own will. This issue is therefore, decided against the workman.

Issues No. 2 and 3.—On the finding of issue No. 1 being in favour of the management, there was no necessity of deciding issues No. 2 and 3.

As per finding given by me on issue No. 1 the workman is not entitled to any relief and the case of the workman fails on this issue. I order accordingly.

Dated, the 23rd March, 1981.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 355, dated 23rd April, 1981

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)-81-8Lab/4994.—In pursuance of the provision of section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Busching Schmitz Pvt. Ltd., Mathura Road, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 81 of 1979

between

SHRI KUNDAN LAL WORKMAN AND THE MANAGEMENT OF M/S BUSCHING
SCHMITZ PVT. LTD., MATHURA ROAD, FARIDABAD

Present :—

Shri Yoginder Singh, for the workman.

Shri H. R. Dua, for the management.

AWARD

By order No. 20/79/9539, dated 28th February, 1979 the Governor of Haryana referred the following dispute between the management of M/s Tüsching Schmitz Pvt. Ltd. Nailua Ford, Faridabad and its workman Shri Kundan Lal, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Kundan Lal was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 11th July, 1979 :—

1. Whether the domestic enquiry held by the management is proper and valid?
2. Whether the termination of services of the workman was justified and in order?
3. Relief.

Issue No. 1.—

Was decided in favour of the management, *vide* my order, dated the 4th November, 1980. Then the case was fixed for evidence of the parties on remaining issues. The parties led their evidence and closed their case. Arguments were heard. Now I give my finding on issues No. 2 and 3 as follows:—

Issue No. 2.—

MW-2 stated that the workman was dismissed after the enquiry, *vide* Ex. M-7. His account was sent by money order, *vide* Ex. M-8 but the workman did not receive the same. In cross-examination he denied the suggestion that the services of the workman were terminated because he had demanded bonus from the management. The workman was General Secretary of the union and protected workman.

WW-1 stated that a general demand notice was issued by the union on 22nd November, 1978 copy of which was Ex. M. 6 which was signed by him. It was pending for adjudication as reference number 104 of 1979. He was dismissed, *vide* Ex. M-7. At that time demand notice was pending before the Conciliation Officer. In cross examination he stated that he was still General Secretary of the union. He did not remember if the management had issued him letter accepting him as a protected workman being office holder of the union. He had given list of protected workman to the union. The list was given after election of the union in 1977. He denied the suggestion that no such list was given.

The main contention of the representative of the workman was that he was a protected workman and permission of the action of dismissal was necessary. He stated that MW-1 has admitted that the concerned workman was a protected workman. On the other hand the representative for the management argued that there was no such question involved. No dispute was pending before the Tribunal, nor it was a case of permission or complaint under section 33. The workman was at liberty to file a complaint before the Conciliation Officer in case some dispute was pending before him. No such pleading was ever taken by him in the demand notice or in his pleadings.

The dismissal order Ex. M-7 is based on the finding of domestic enquiry Ex. M-2. I have gone through the same and find that the workman was held guilty of misconduct of sleeping while on duty and further telling his supervisor when he was awoken by him that he will sleep do what ever he could do. Misbehaviour and refusal of work finds place in the misconduct given in the Certified Standing Orders. Ex. M-6. I have considered the finding and also evidence recorded by the Enquiry Officer. It is admitted version of both the parties that the workman was sitting on a stool holding his head in his hands. According to the workman he had headache. In such a situation it was incumbent upon the workman that he should have reported about his indisposition to the Office Incharge of the shift rather sitting by the side of machine. He has not proved anything about his victimisation on account of being General Secretary of the union. I am of the opinion that an Office holder of union should be aware of rules and must behave in an orderly manner so that there may be peace and harmony between the management and the workman. I do not find any justification to interfere in action of the management. This issue is decided in favour of of the management.

Issue No. 3.—

The workman is not entitled to any relief.

While answering the reference, I give my award that the termination of services of the workman was justified and in order. The workman is not entitled to any relief.

Dated, the 7th April, 1981.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 372, dated the 23rd April, 1981.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.